

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DIVISION OF MONTANA
MISSOULA DIVISION

Cause No. CV-13-121-M-DWM

TAMARA DOWNEN, Individually and as Personal
Representative for the ESTATE OF STANLEY L. DOWNEN,
deceased,

Plaintiff,

vs.

MONTANA VETERANS' HOME; STATE OF MONTANA DEPARTMENT OF
PUBLIC HEALTH SERVICES; CITY OF COLUMBIA FALLS;
MIKE JOHNSON; and DAVID G. PERRY,

Defendants.

DEPOSITION OF CELESTIA ROSE McELDERRY
November 26, 2013

Pursuant to Notice and the Federal Rules of
Civil Procedure, this deposition, called by Plaintiff, was
taken at 145 Commons Loop, Suite 200, Kalispell, Montana,
at 9:00 a.m., before Sheri J. Hazlett, Registered
Professional Reporter and Notary Public of the State of
Montana.

1 Q I want to talk a little bit about
2 Stanley Downen. Before we get too far, you know I
3 represent Stanley Downen and his daughter Tamara; is that
4 right?

5 A Yes.

6 Q Had you known Stanley before he was admitted in
7 2012?

8 A No, sir.

9 Q Did you know Tamara at all before 2012?

10 A No, sir.

11 Q Were you working at the veterans' home on
12 May 31, 2012, when he was admitted?

13 A No, sir.

14 Q When was your first contact with Stanley Downen,
15 if you recall?

16 A Evidently it's the first, the day I had -- we
17 had this incident.

18 Q Was he located in the special care unit, or was
19 he -- did he have a room in the special care unit?

20 A No, sir.

21 Q Do you know where his room was?

22 A It was on 50 bed.

23 Q And the 50 bed is -- if we're looking at
24 Exhibit 7, it has Doors 3 and 4 that go to the exterior of
25 the facility; is that right?

1 to a person coming to the veterans' home?

2 A Usually.

3 Q Did you review the chart from Stanley Downen, if
4 you recall?

5 A No, sir.

6 Q No, you didn't or no --

7 A No, I did not.

8 Q Can you kind of take me through what you recall
9 just independently from June 1 of 2012, specifically with
10 what happened with Mr. Downen.

11 A What I recall, the gentleman had been sitting in
12 a recliner in the TV room, had been very quiet and was
13 resting, and all of a sudden he stood up, became very
14 agitated without provocation, and started pacing, wanting
15 to go home, unable to redirect him or to calm him down.
16 We tried food, we tried a drink, and he was -- we were
17 unable to calm him.

18 Q After you were unable to calm him, then what
19 happened? About what time was that, do you recall?

20 A No.

21 Q Do you remember if it was morning or afternoon?

22 A I know it was afternoon. I just don't remember
23 what time.

24 Q And then what happened?

25 A Because he kept trying to -- wanting to pace, a

1 CNA was assigned to walk with him for safety. I think the
2 next thing that he did was to go out to the courtyard
3 door, which is an enclosed area, and they just allowed him
4 to wander around outside. It's safe out there.

5 Q When you say "the courtyard door," is that door
6 numbered on this diagram, Exhibit No. 7?

7 A Door 5.

8 Q Okay. I've seen some notes, but it says
9 something like a smoking shack or --

10 A Yes, but it's also enclosed.

11 Q Is it also enclosed with a fence or --

12 A It's also enclosed with the walls of the
13 facility and a gate.

14 Q So you're referring to the inside, it says,
15 "50-bed courtyard," that's where he was trying to get
16 into?

17 A Uh-huh.

18 THE COURT REPORTER: Is that a yes?

19 THE DEPONENT: Yes.

20 Q (BY MR. McFARLAND) And he was allowed to go in
21 there?

22 A Yes.

23 Q Where is the smoking shack, or what is the
24 smoking shack?

25 A Well, you can't smoke in the building, but they

1 have to provide areas for the residents to smoke, so there
2 is a building there that they smoke in and a building that
3 the staff smokes in.

4 Q Okay. So what happened after he went into the
5 courtyard?

6 A Wandered around for a while. Again, we let him
7 wander. He was in a safe area with CNA supervision. And
8 then he did come back into the building. If I recall, the
9 other nurse attempted to give him some medication, and he
10 refused it orally, and he pushed her away.

11 Q Do you recall what medication that was? Let me
12 give you your notes, because I don't want to do a memory
13 test for you.

14 A Please.

15 Q Here's what I have -- I don't know --

16 A Those are my notes.

17 Q I'm going to make two exhibits here. One will
18 be Exhibit 8, the front is labeled "Montana Veterans'
19 Home," and it looks like they're progress notes. I'll let
20 you have that to look at.

21 (Exhibit 8 marked.)

22 Q (BY MR. McFARLAND) I'll have Exhibit 9, which
23 starts with page 701, the second page medical history and
24 physical admission orders. That one goes through 740.

25 (Exhibit 9 marked.)

1 Q (BY MR. McFARLAND) Rose, I asked you a question
2 as far as if you knew what medication that a nurse tried
3 to give Mr. Downen.

4 A And it was Ativan.

5 Q What does Ativan do?

6 A Calm -- helps calm people down. It's a
7 benzodiazepine, I think.

8 Q You said that was unsuccessful; is that right?

9 A He wouldn't take it.

10 Q So then what happened?

11 A According to my notes, we continued supervision
12 with two male staff members; his agitation increased; we
13 were able to give him Haldol IM through his right
14 shoulder.

15 Q Let me stop you there. What is Haldol?

16 A Haldol is a medication used for helping people
17 calm down, helps change behaviors sometimes.

18 Q And how does it change behavior?

19 A Don't ask me that. I have no idea. I just know
20 it sometimes works.

21 Q And I guess more --

22 A Because I don't know the pharmaceutical --

23 Q And more than the science part of it, when you
24 see someone that is administered Haldol, what's the
25 difference --

1 A Usually they calm down, become less agitated,
2 more responsive to verbal direction.

3 Q Okay. And is it uncommon to use that medication
4 on someone who has Alzheimer's or dementia?

5 A No, it is not uncommon.

6 Q That's something that's regularly used --

7 A Not regularly, but it's not uncommon.

8 Q And do you remember how that Haldol was
9 administered?

10 A I gave it to him in a shot.

11 Q Did you need assistance with that?

12 A Yes, the two gentlemen CNAs helped me.

13 Q How did they do that?

14 A They just held his arms down so I could put it
15 in his shoulder.

16 Q Is it a pretty quick shot then?

17 A Yes, sir.

18 Q How much Haldol did you give Mr. Downen?

19 A Two milligrams.

20 Q Not knowing anything about it, on a scale of a
21 little bit to a lot, how much is that?

22 A It's not very much.

23 Q Looking at Exhibit 8 or 9, I'm trying to figure
24 out -- I understand a lot what went on that day, but is
25 there anywhere you would write that down or say Haldol X

1 Q When was the first time they reported back to
2 you?

3 A They told me he had gone out the door. And I
4 was kind of watching but not right with him.

5 Q Like I said, I understand you have -- how many
6 other residents are in 50 bed, do you know, approximately?

7 A 50. That's the most 50 bed will hold.

8 Q That's not just a clever name, it's actually 50
9 people?

10 A (Nodded head.)

11 Q Gotcha. So lot of other things going on for you
12 there?

13 A Yes, sir.

14 Q When Mr. Downen was acting agitated before you
15 gave him the Haldol, did he make physical contact with any
16 other residents?

17 A No.

18 Q Did you see him threatening any other residents?
19 I'm trying to get a picture of --

20 A No.

21 Q Okay. Was it out of the ordinary the way he was
22 acting?

23 A Yes.

24 Q How was it out of the ordinary?

25 A Because he was so agitated.

1 Q And working with Alzheimer's and dementia
2 residents before, have you seen that agitation before?

3 A Yes.

4 Q What are some of the things you're taught in
5 your different classes in continuing education on
6 redirection?

7 A We try to validate what they're saying, because
8 they don't know what reality is, for the most part. But
9 we offer food, we offer music, we offer to take them for a
10 walk, we offer to take them to the bathroom, take them
11 outside, maybe a television show, maybe a book, maybe a
12 cup of coffee, maybe just walking with them and letting
13 them say what they want to say and just very quietly
14 staying with them so they know there's another person
15 there that's listening to them. We may not be able to
16 understand what is going on with them, but we're
17 listening. And so those are basically things we --
18 sometimes candy, ice cream, a teddy bear, whatever works.

19 Q So Mr. Downen walked off with a CNA with him?

20 A Yes.

21 Q And then when was the first time you were
22 notified that he had gotten out of Door No. 2?

23 A Within just a few seconds of him going out.

24 Q Are there any locks or anything between the
25 doors --

1 is Door 2 to the outside. To go straight in is the SCU
2 door. That is your keypad lock door. This door is not.

3 Q I see. Is it these two doors here then that are
4 the keypad lock?

5 A There's only one door that is a keypad lock,
6 just one, the one that goes directly into SCU.

7 Q Gotcha.

8 A Okay.

9 Q All right. So he went out of Door No. 2 then?

10 A Yes.

11 Q And you said just a few moments after he went
12 out, you were alerted?

13 A Yes.

14 Q Who told you that he had gotten out of
15 Door No. 2?

16 A I have no idea. I do not recall.

17 Q What did you do when you heard that he was out
18 of Door No. 2?

19 A I went out with them. I just followed them out
20 the door.

21 Q Out of Door No. 2?

22 A Yes.

23 Q Then what happened?

24 A He started walking toward the big gates at the
25 end of the driveway. He picked up a couple of rocks from

1 the landscaping, threatened to hit us if we came any
2 closer, so therefore we stayed with him but not close to
3 him.

4 Q Okay. Did you know that Stanley Downen had
5 Alzheimer's or dementia?

6 A I did by this time, but I didn't at the
7 beginning.

8 Q Do you know when you figured that out?

9 A I looked at his record real quick.

10 Q When you say you looked at his record real
11 quick, was that after he had gotten out the door?

12 A No. It was in between here, of him wandering
13 around. I grabbed his chart to check his diagnosis.

14 Q Would that be the same chart then that has the
15 Haldol prescription in there? Is that how you knew how
16 much Haldol you could give him?

17 A Because it's on that order sheet.

18 Q So he walks out of Door No. 2, and you say he
19 walked toward the big gate. Are you talking about the big
20 gate on the road going out?

21 A Yes.

22 MR. McFARLAND: We'll mark this Exhibit No. 10.
23 And this is a Google map.

24 (Exhibit 10 marked.)

25 Q (BY MR. McFARLAND) So Exhibit No. 10 was

1 A Yes, sir.

2 Q Do you know who called 911?

3 A One of the nurses inside the building called
4 911, and I think it was Linda.

5 Q Okay. Do you remember which hand the big rock
6 was in and which hand the little rock was in?

7 A I do not.

8 Q How close were you following Mr. Downen?

9 A Probably the length of this room. Maybe more.
10 Maybe closer. But no further than the length of this
11 room. I don't know how many feet this room is.

12 MR. GOICOECHEA: I can't help you.

13 THE DEPONENT: I can't help myself.

14 Q (BY MR. McFARLAND) That's fine. Is it 20 feet
15 or so, does that sound about right?

16 A Is this a 20-foot room?

17 Q I guess I don't know how else to describe it.

18 A I can't tell you how far.

19 Q Did he threaten you with rocks?

20 A Not any of us specifically.

21 Q Okay. So was he just --

22 A If we got too close: Get back from me, I'm
23 going to throw these (indicating) at you type thing.

24 MS. PRINZING JONES: Let the record reflect that
25 the witness just held back her arm like someone was going

1 to throw a rock.

2 A Sorry.

3 Q (BY MR. McFARLAND) That's fine, and I actually
4 want to ask you about that. As far as him threatening you
5 with rocks, would he pick one up like he was going to
6 throw it?

7 A If we got too close. As long as we stayed back,
8 he didn't threaten us.

9 Q As long as you stayed away from him, he didn't
10 threaten you with rocks?

11 A No.

12 Q I'm guessing you figured that out as you were
13 walking down the road?

14 A Yes, sir.

15 Q And you stayed back far enough where he stopped
16 threatening you with rocks, right?

17 A Yes.

18 Q Do you recall about how far down Veterans Drive
19 you were when the police showed up? If you can kind of
20 circle --

21 A Probably about here (indicating).

22 Q Where you put a line in the road there?

23 A Yeah.

24 Q Did you know the police were going to show up?

25 A We called them.

1 outside whenever they want at any time they want?

2 A Yes.

3 Q And that was the same --

4 A As long as it is a safe environment.

5 Q Okay. And what do you mean by a safe
6 environment?

7 A That they are alert enough to know where they're
8 going, what they're doing, how to get back to us in a safe
9 manner.

10 Q Okay. Let me see if I can differentiate some of
11 the residents. The residents in the special care unit
12 aren't allowed to go outside of the unit?

13 A Only into the courtyard.

14 Q Why is that?

15 A Because they are not cognitively aware enough to
16 find their way back to us safely.

17 Q And did you know one way or another whether
18 Mr. Downen was cognitively aware enough to find his way
19 back?

20 A At that point in time, no, he was not.

21 Q Okay. If you don't know, tell me you don't
22 know, but is that one of the reasons he had a WanderGuard
23 on him?

24 A Yes, probably.

25 Q And so are there other residents in the facility

1 that have WanderGuards on them --

2 A Yes.

3 Q -- and aren't in the special care unit but in
4 the general facility, I'll call it?

5 A Yes.

6 Q And those residents aren't allowed to go out
7 whenever they want to; is that right?

8 A That's right.

9 Q Have any of those residents, to your knowledge,
10 ever gotten out of the facility?

11 A Not that I am aware.

12 Q And if you're just a general resident in
13 Montana Veterans' Home without a WanderGuard and mental
14 capacity to get back, you can leave the veterans' home
15 whenever you want?

16 A Yes.

17 Q And do you have residents who do that?

18 A Yes.

19 Q When you were following Mr. Downen -- I think
20 you put the red mark in the road there -- what was the
21 first thing you remember when the police showed up?

22 A I remember they came through the gates and kind
23 of parked the car right there (indicating). Both officers
24 got out of the car.

25 Q When you say "right there," it's where --